

REMARKS

Claims 1-12 are rejected. Claim 1 is amended. Claims 13-15 are added. Claims 1-15 remain pending.

Claim 1 is amended to correct the typo noted by the Examiner.

Support for added Claims 13-15 is found in the specification and drawings as filed. See for instance page 12, lines 21 through page 13, line 6.

112 Rejection:

Claims 1-12 are rejected as not being described in the specification. It is respectfully urged that this rejection is improper for at least the following reasons.

The Examiner states that:

"And yet, only on page 11 of applications specification, lines 20-21 does mention the "the actuation mechanism is shown in a first configuration."

First, it is respectfully urged that even if page 11, lines 20-21 is the first and only place that the claimed subject matter is described, that would be sufficient to enable the claim.

Second, the subject matter is described in other portions of the specification. For instance, page 4, lines 10-20 describe a first configuration in which the actuator mechanism is decoupled from the pulling member. Page 11, lines 20-24 explain that the decoupling can include having no engagement of the cable 99 by the actuation mechanism. Page 12, lines 21-31,

explain that in one embodiment, in the first configuration there is a clearance 26 between wire sleeve 95 and the inner diameter of a torsion spring 77. In this embodiment, the clearance 26 allows wire sleeve 95 to float freely inside the spring 77, so that wire sleeve 95 and pull cable 99 are decoupled from torsion spring 77 until the actuator 50 is moved a predetermined distance. The specification explains that in this embodiment, the actuation mechanism does not hold or otherwise constrain sleeve 95 and pull cable 99 in the first configuration.

Third, Page 15, lines 10-30 explain how Figure 16 illustrates an alternative embodiment for providing coupling and decoupling of the actuation mechanism with the pull member. Page 15, beginning at line 31, explains how Figure 17 illustrates another alternative embodiment for providing coupling and decoupling.

It is respectfully urged that the specification does in fact describe the subject matter of the claims in a manner to enable one skilled in the art as required by 35 USC 112. Accordingly, withdrawal of the rejection under 35 USC 112 is requested.

102 Rejection:

Claims 1-12 are rejected as anticipated by US 5,275,322 (Brinkerhoff). It is respectfully urged that this rejection is improper for at least the following reasons.

Claim 1

With respect to Claim 1, the Examiner states that Brinkerhoff discloses a medical device . . . "where the actuator mechanism

has a first configuration in which the actuator mechanism is able to decouple from the pulling member (fig 9)". . . .

However, the Examiner has not provided an explanation as to how Figure 9 of Brinkerhoff teaches or suggests that the actuator mechanism is "able to decouple from the pulling member". The Examiner merely states that it does.

It is respectfully urged that the Applicant does not have a full and fair opportunity to respond to the rejection where the Examiner has not provided the basis for the rejection, and it is respectfully urged that merely referring to a Figure number does not provide the Applicant with a basis to which the Applicant can respond.

It is respectfully urged that the Examiner withdraw the rejection, or provide the specific basis for the rejection in a non-final rejection.

In addition, the Examiner states that Brinkerhoff teaches a "flexible shaft 70". It is respectfully urged that Brinkerhoff describes element 70 as "a longitudinally curved support shaft assembly 70". See column 8, lines 50-60. Accordingly, the Examiner is requested to provide the basis for the Examiner's statement that element 70 is a "flexible shaft".

Claims 4, 5, and 6

Regarding claims 4, 5, and 6, the Examiner states that Brinkerhoff teaches:

. . . The actuation mechanism comprises a resilient member which is a spring 320 which is able to couple the

actuation member to the pulling member, where the resilient member comprises a torsion spring...

Claim 4 recites, among other things, a resilient member for operatively coupling the actuation member to the pulling member, and Claim 6 recites among other things, the resilient member comprises a torsion spring.

In contrast, Brinkerhoff teaches at column 15, lines 35-40, that a safety release bracket 312 is biased distally by the coil spring 320 to urge the upstanding flange 318 against the rib 315 with the finger 324 advanced distally and disengaged from the indication lever 326. Brinkerhoff goes on to explain at lines 50-55 explain that the indicator lever moves the indicator 84 along a scale to provide an indication of the selected staple height.

Accordingly, it is respectfully urged that coil spring 320 of Brinkerhoff does not couple an actuation member to a pulling member, as the Examiner maintains.

Instead, the spring 320 is used in a portion of the Brinkerhoffer device that moves an indicator lever.

Accordingly, the rejection should be withdrawn.

Claims 8, 9, 10, 11:

The rejection of Claims 8, 9, and 10 is improper for at least the reason that the Examiner's rejection does not address these claims.

Claim 8 recites, among other things, a proximal end of the pulling member is joined to a relatively larger diameter

member, and wherein the actuator mechanism engages the relatively larger diameter member to provide coupling of the actuator mechanism to the pulling member.

Claim 9 recites, among other things, the actuator mechanism engages the relatively larger diameter member by gripping engagement.

Claim 10 recites, among other things, the gripping engagement is provided by a resilient member.

Claim 11 recites, among other things, the resilient member comprises a coil spring.

It is respectfully urged that Brinkerhoff does not teach or suggest the subject matter of Claims 8-11 (or any of the other claims).

The Examiner is respectfully urged to withdraw the rejections, including those of Claims 8-11.

Because the Examiner's rejection does not address the subject matter of Claims 8-11, it is respectfully urged that if the rejection is not withdrawn, that the Examiner provide a subsequent non-final rejection that provides the basis of the rejection so that the Applicant has a full and fair opportunity to respond.

New Claims:

It is respectfully urged that the new claims distinguish over Brinkerhoff for at least the reasons set forth above.

The Examiner is respectfully requested to reconsider and allow the pending claims.

Respectfully submitted,

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